

**BUTTE-SILVER BOW LOCAL GOVERNMENT
STUDY COMMISSION**

Minutes of the Meeting

January 5, 2006

Butte-Silver Bow Courthouse, First Floor Conference Room

Meeting Date: January 5, 2006

Time: 5:30 p.m.

Place: Butte-Silver Bow Courthouse, First Floor Conference Room

Call to Order: Chairman Bob Worley brought the meeting to order at 5:35 p.m. and called roll with the following results:

Members Present: Tony Bonney, Ristene Hall, Wayne Harper, Dave Palmer, Meg Sharp, Northey Tretheway, Bob Worley, Shag Miller and Ron Rowling

Excused Absences: Cindi Shaw

Approval of Minutes: Minutes from December 8 and December 25, 2005 were approved.

Bob Worley mentioned comments made from the minutes of December 15th in regard to elected officials and the use of profane language. Bob Worley asked if this occurs in the future, and he has not corrected the individual, to have a Study Commission member call that individual to order. Bob Worley stated that they are elected to do a job not run down other people. Bob Worley does not want to condone the use of profane language at the meetings and to have everyone keep that thought in mind.

Comments from Ron Rowling: Bob Worley asked if he found anything on state laws regarding the hiring and firing of police officers. Ron replied that the MCA books are in Jennifer's office and will not be able to look up that information until she returns. Bob Worley asked if that also included finding the information on the Public Works Director's requirement of being a Professional Engineer. Ron replied yes and stated he would have the information at the next meeting.

Citizen's Comments: None.

Items Not On Agenda: Tony Bonney spoke with Shelly Jones. She stated if they were straining on the Administrative Assistant part under the Chief Executive, she would like to submit two job classifications (Administrative Coordinator and Executive Assistant) and would like it clarified that she is not a Secretary or an Administrative Aide. She stated the job she does for the Chief Executive is more under the Executive Assistant job classification. She has the ability to attend meetings for Paul and update staff members. It is quite a detailed position and if there were any changes made she would like to see that happen. Tony stated that he agrees with her. Tony stated that he spoke with her about the job duties and what it entails. It is far more than a Secretary but not quite an Administrative Assistant. She hoped the job classifications she provided would help clear up any misconception of her job title and duties.

Bob Worley referred to Section 4.02 under (c), the Chief Executive may appoint an Administrative Aide...Bob Worley believed they voted to eliminate that section of the charter.

Northey Tretheway replied that it was brought up again last week. Tony Bonney stated it was Bob McCarthy who last brought it up. Tony stated that Shelly did not agree with Bob

McCarthy's statement of her being a Secretary. Tony did not think a Secretary would be able to attend meetings for the Chief Executive. Tony stated the job classification of Executive Assistant fits her job title more.

Northey Tretheway replied that they did decide to eliminate that section. Tony stated that they discussed the Chief Executive or Council could appoint one. Shelly was concerned about any misconception of her being a Secretary.

Ristene Hall replied the charter states it is an Administrative Aide and Bob McCarthy was giving a title of Administrative Assistant. Ristene asked if there was a difference between the two?

Tony Bonney replied that he has a job description for Administrative Coordinator and Executive Assistant. Tony believed the Executive Assistant classification covered it more.

Bob Worley commented if they choose to do something with that, they are going to create another position either an Administrative Assistant or Coordinator and then there would be someone who would be a Secretary to the Chief Executive. Bob Worley commented that Judy Jacobsen appointed Dinah as an Executive or Administrative Aide last time. Dinah, to his knowledge, was more of a Secretary than an Administrative Aide. Bob commented that Paul has hired Shelly as an Administrative Aide. Bob stated it is up to them to straighten it out.

Tony Bonney replied that was what Shelly was concerned about. Shelly suggested if it is cleared up, it is more than a Secretary position but not quite an Administrative Aide.

Wayne Harper asked if anybody knew of the three ladies titles that worked in the County Attorney's Office. Nobody knew and Wayne replied that was his point. Wayne stated it is none of their business. Wayne stated that they voted that they do not want an Executive Aide who would qualify with training and experience and can be appointed. Wayne stated whether the Chief Executive has an Executive Assistant that is more highly trained or more important than a Secretary or whether he has a Secretary, that is up to the Chief Executive. Wayne stated it does not belong in the charter. Wayne stated either way Shelly has job. This is not about whether they are doing away with her job or not.

Bob Worley asked Wayne if what he was saying was that they should not micro-manage. They should leave it up to the Chief Executive. Wayne replied that they should let Shelly know they are not discussing the issue of taking her job away. They are concerned with the issue of whether or not the Chief Executive could appoint. Wayne did not think it was their job to get into the County Attorney's Office, the Chief Executive's Office or anyone's office as far as job roles.

Northey Tretheway commented it is their job to focus on the form and structure of the government. Not individual positions. Northey stated if they did decide to keep that section in the charter it would be more of a continuity type thing so when a new person comes into office, there is someone there with experience.

Meg Sharp commented according to this morning's newspaper, Shelly stated it was her job to end when Paul Babb leaves office. Bob Worley replied it was brought up in the article that Paul and Shelly have a verbal agreement that will probably go down the tubes if something happened.

Bob Worley commented in regard to Wayne's comment, if the Chief Executive needs additional help, the Study Commission eliminates that section of the charter and it would be up to the Chief Executive to go to the commissioners to get the help that he requires.

Ristene Hall commented that they are making gambles all the time. She stated you could bring in an experienced person and that person may not be any good. Ristene stated you could bring in someone like Shelly, who may not be as experienced in government but will bend over backwards to do a good job.

Northey Tretheway replied the question is how much power do you put in the hands of one person? Northey stated you throw the dice when a new person comes in. One person is making the decisions on hiring and firing. That can be balanced by having some checks and balances.

Ristene Hall asked when Paul hired Shelly, did that go before the council? Is it only when he appoints? Bob Worley replied when he appointed the Public Works Director and the Budget and Finance Director, they went before the council.

Tony Bonney did not believe regular employees went before the council. The only ones he knows for sure are police officers and firemen. Dave Palmer replied that they are actually approved by the Council of Commissioners.

Wayne Harper stated that Section 4.02 (d) is clear when he appoints a non-elected department head that it is with the advice and consent of the Council of Commissioners.

Bob Worley asked if it was the consensus of everyone to leave it the way it is right now and strike (c) from the charter.

Bob Worley mentioned Ron Ueland would like to see the Chief Executive be able to continue to select his department heads. Bob Worley has asked him to come to the meeting and wrote him stating that it is their intention to leave "due cause" within the charter but "at will" has to go away or BSB is in a lot of trouble.

Northey Tretheway stated that he forwarded that to Bob McCarthy. Bob McCarthy responded to Ron.

Bob Worley stated that there is no way they can override state law.

Bob Worley asked Wayne if they should change the existing charter to reflect the changes they are talking about and if it does not get approved to make it legal that they follow state law? Then they live with that charter for ten more years or get the Council of Commissioners to allow the people to vote on it? Wayne replied, simple law...you go to the charter. The public of Butte-Silver Bow did not amend any changes. With that said, by virtue of real law, statutory law and case law in the State of Montana, that charter language was already an issue. You can't have language that supercedes the Montana Constitution and or case law. It is as though it was never written in the first place. That language would not be applicable anymore. You hope in the future people would say you could not do that. The language can stay the way it is.

Ristene Hall stated it is kind of hard to comprehend that you take a charter that the people voted on but someone can turn around and say no. They can say it is not legal and are going to change it. Ristene stated you think it would have to be the people that would have to change it.

Wayne Harper replied it is the people of 33,000 voters. 16,212 voters of BSB can't overrule because there is a federal government of 150 million people that have a constitution in place. Add the 26th amendment and you cannot do it. We have a constitution in the State of Montana. All 893,000 people say you cannot have "at will" employment anymore so BSB cannot have a charter that says you can.

Ristene Hall commented if state law could overwrite the charter, why do they even bother with the charter? Why doesn't state law just write the charter? Wayne Harper replied state law won't do that. State law says you can have your own charter but you cannot say something that is against public law.

Tony Bonney suggested they ask Don Robinson, who does a lot of labor law for BSB, to attend one of the meetings and explain to them so it is on public record that you can't do this or what the limitations are. Tony continued, then it is done for sure and if they had to pay him for that hour that would be fine. Tony thinks it has to be stated on public record that they had an outside opinion from a labor attorney who says you cannot have a contracted employee on this or you cannot have an "at will" employee. Then the question is done. Otherwise, two years from now, people are going to say why didn't they have an attorney at the meeting that said you can't do this or you can't do that. Tony believes that would be the best way to end it and have it done. Tony would trust Don's opinion and stated he is a pretty sharp guy who knows a lot about BSB already.

Bob Worley replied that it has been their intent all along. Wayne worked on the language a little bit and they are hoping that Wayne would talk to somebody who is outside of Butte or Montana. Bob Worley stated that he thinks Don is a good attorney who would give them good advice but if they could get somebody who could give advice that is further away from it than what Don is, he would be more comfortable with that.

Northey Tretheway replied if they do that then they are going to have to make sure the attorney they choose is given the necessary information so he knows exactly what they are talking about. So when they do come here, they have the facts, they know everything and they can give a clear answer. Northey Tretheway commented Don already understands what is going on since he is from Butte. Northey did not believe Don would give a bias opinion.

Bob Worley replied that he does not have a problem with him coming to speak to them as long as everyone in the Study Commission is comfortable with Don Robinson.

Wayne Harper replied that he has no problem with that or doing those things. Wayne referred to Section 5.04 of the charter, which states the County Attorney shall be the chief legal officer of local government. Wayne stated that Bob McCarthy has given his opinion already and with that said, he believes they have the operating abilities to go outside if they choose. Wayne stated that they have Bob McCarthy, who is the attorney for that board and he said you could not do that language anymore. Wayne commented that he fine with Don Robinson and he is well respected.

Shag Miller asked if Bob McCarthy suggested or had no objections to Don Robinson?

Tony Bonney replied that they owe it to the voters to go outside of BSB and this was the answer for public record.

Bob Worley replied that they would need to first choose an attorney and second they need to vote on spending the money as a commission. Bob Worley is assuming that it would cost somewhere around \$150.00 to \$200.00 an hour to get an opinion. Bob Worley thought the total cost would be around \$450.00-\$600.00 or maybe even as high as \$1000.00. Bob Worley stated that they have the money in the budget; it is just a matter of what everyone feels comfortable with.

Shag Miller suggested that Bob Worley meet with Don Robinson to see if that is something he would be interested in doing. Shag feels that issue is on the minds of the public and they should clear it up because it is a separation of church and state. Shag made a motion for Bob Worley to meet with Don Robinson.

Northey Tretheway concurred and explained after everything that has gone on there is still a disconnect between what the Chief Executive abilities are legally and what he is restricted from doing. Northey thought they could go outside to get some clarification and more easily convey to the public to vote on that particular item.

Bob Worley stated the only thing he would like to see added to that motion is the section they are discussing. Bob Worley confirmed it was Section 4.02 (d). Bob Worley asked Shag if it would be all right to add that to his motion. Shag replied yes.

Wayne Harper thought the motion, with them being an elected board; they would need to formally ask Bob McCarthy for his approval. Wayne did not believe it would be an issue and thought Bob McCarthy already said they could seek advice from Don Robinson. Wayne would like them to ask him...one other issue comes up and Don will know, with the Dinah McLeod lawsuit pending and Don doing some work for the county, his opinion is going to have to be very focused on (d). Not on any opinion that could impact how you go forward on that pending lawsuit of BSB. Wayne stated that he is suggesting this to Bob Worley so when he talks to Don, he knows that they are not looking at the Dinah issue at all.

Shag Miller commented that precedence has already been established because the county with Bob McCarthy's consent has hired experts for Superfund, as an example.

Dave Palmer stated that he agrees with Wayne. They should get a formal approval from Bob McCarthy. Dave commented that they have already wasted enough money and does not believe they need to spend another \$1,000.00.

Tony Bonney thought the \$1,000.00 would be well invested. Tony gave an example of having a Home-Owners Insurance Policy and hopes he will never have to use it but he pays for that every year. He thought a \$1,000.00, by the taxpayers, to get a solid answer on why you could or could not do something would be well worth the investment and end that question. He agrees Wayne has drafted language but they will have an outside opinion on record that says exactly what it is. Tony feels that will put the public at ease and show that they did their job.

Meg Sharp asked what the motion was at that time. Bob Worley replied that he be given permission to talk to Bob McCarthy for consent to speak with Don Robinson. Bob Worley stated the amendment is that he is speaking to Don Robinson to get some language for Section 4.02 (d).

Wayne Harper replied he thought the motion was Bob Worley talk to Don Robinson to make sure that under Section 4.02(d) and things similar to it. Then you could no longer have Chief Executives that are allowed to "at will" appoint...he did not think they were going to Don for language. Wayne commented that they want to be able to tell the public this is why.

Shag Miller commented what he thought the public wants them to do is have language in the charter that will allow the Chief Executive to appoint under the law. Tony agreed.

Bob Worley asked if they want to know if Don Robinson can write the language so it could be inserted properly into the charter to avoid future problems?

Wayne Harper replied that he is taking the motion, as they trust Bob McCarthy, he will extend and permit their issues...

Bob Worley stated that he will withdraw his motion and advised Shag to withdraw his motion. They will start with the motion all over again to include 4.02 (d). He will ask Don Robinson if he

can write the language for 4.02 (d) so they will no longer have “at will” employment in the charter.

Shag Miller replied his motion was for Bob Worley to meet with Don Robinson to review 4.02 (d). Shag stated if he would like appropriate language, which would enable the Chief Executive of BSB to appoint department heads legally, in accordance with state law.

Northey Tretheway commented that ability to appoint is not what is in question as is the requirement of firing or terminating.

Wayne Harper replied the ability to appoint his own is probably at issue. For instance, you take Jim who is in a department head. The Chief Executive now wants to appoint Shag who would be better than Jim. The issue becomes how do you terminate that person?

Shag Miller commented this is bringing about a number of questions such as, does someone retire, can he appoint under this but how would they rewrite that? If the person dies does he appoint the new man forever or does he say four or five years like the Superintendent of Schools? The elected officials are responsible to the voters under performance and they go up every four years for that yeah or neigh. Shag would like to use Don as a vehicle to allow voters to see what they are working on or as an initiative to solve this problem. If he says they can't do it or if he says this is the way it could be done, let the voters vote on it. They have to have something to provide in Section 4.02 (d) anyway.

Meg Sharp thought one thing that would help is referring to the first sentence, all non-elected department heads as a vacancy comes up.

Wayne Harper agrees with Meg. He thinks Shag worded it very well that if it is at all possible, if they are going to Don, they need to ask is there any possibility of doing something this way? With that said, for example, Shag hires a Station Manager at KBOW, six months go by, in today's world, he is Station Manager for life but for cause. Shag would have to say you are no longer doing this job and here is why. You have to have cause to let that person go. Once you are department head, you have to have cause to be let go. Wayne commented with that said, he would be interested if Don could come up with a way to say while it is important Tony is the department head, to Paul, it is more important that one of Tony's co-workers is department head. Could you move Tony back to something very inert in the department? Is there a way to do that?

Tony Bonney believed the question has been answered in regard to someone being let go without cause. Tony believes the question out on the street is can someone brand new come in and bring in his/her own team? This is not to fire the existing team but to replace and move the existing somewhere else within the county. Can this be done legally? If you could or could not, they would at least be able to give the people of BSB an answer.

Bob Worley believed Bob McCarthy answered that you could not take someone like Jim Johnston and put him in charge of latrines in the courthouse. It has to be a “like” job. Tony replied exactly. They would need to outline that it is a “like” job and that he did not lose any money according to where he placed.

Northey Tretheway replied that is something they could speak with Don Robinson about.

Bob Worley stated that he would call Don and make the appointment but he would like to have someone go with him so if he happens to miss something, the other person would be able to pick it up.

Bob Worley commented he would like Wayne to go with him since he has a background in law. Wayne Harper stated that he would be happy to go with Bob Worley.

Ristene Hall commented if nothing works then they need to make every BSB position an elected position so the people can vote.

Northey Tretheway stated that he has not heard back from Bob yet on the review of the simplified charter. He thought it was worth noting that nowhere in any of the other charters did they bring up that particular issue regarding the hiring and firing. Northey stated it is the detailed structure that makes the charter too complicated to be really useful for a long period of time. Second, those are complicated issues they are discussing on employment and time and time again they have heard the use of ...does not have that HR type of capability. Northey asked if that was a risk. Should you not be able to bring in HR people in BSB and have this answered? Bob McCarthy might be that person but he should not be. Legally what kind of policies...that is where this needs to be is in the policies and procedures of the HR Department?

Bob Worley replied when Tim Clark went to a previous meeting, Bob thought he heard him say he was in the process of writing a Personnel Manual.

Ristene Hall commented back to the subject of the Chief Executive and department heads...to remove the department heads and put them in a different job and then create new jobs and then put those people coming in as department heads. Then they get moved and put in new jobs...they would be creating 4-6 new jobs and eventually there is no way BSB could afford that.

Tony Bonney agreed with every one on the simplified charter but thinks the Study Commission owes the people of BSB a definite answer, whether it is yeah or neigh. They owe them an answer so every time you pick up the paper you do not see something that reads, "How dare you Paul". Then it is out there and they know for sure.

Northey Tretheway replied the U.S. Constitution does not say anything about employment law that he knows of. Everyone is covered by ordinances or codes and the charter is that? He is not against coming to a conclusion with regard to the "at will" or the "for cause" issues. Northey is asking is it best put in the charter or best put in ordinance? Northey state if it is put in the charter, it is hard-core. If it is put in ordinance and the law changes next year, it can be changed.

Bob Worley stated that it has been brought up to give voter's a choice of having a brand new charter or correcting the existing charter. Bob stated that they are down to less than ninety days. They need to have some answers to go to the public with and get it through to the Clerk and Recorder to go on the ballot. Bob believed it was everyone's intent to have it on the June ballot.

Bob Worley asked if there were any other items not on the agenda so they could move forward. Shag Miller asked if there was a vote on the motion? Bob Worley asked that Shag withdraw his motion.

Shag Miller motioned that Bob Worley speak with Don Robinson to find replacement language if possible for Section 4.02 (d). Wayne Harper seconded it. All were in favor and the motion carried.

Tony Bonney brought up the topic regarding the Water Company and it being taken out of Public Works. Tony stated that he spoke with Paul Babb and John VanDaveer to let them know he is going to be asking questions regarding that matter. Tony stated that he would probably not get any answers until February. Tony stated the presentation would be made before the committee before it goes anywhere else.

Bob Worley moved forward with the review of the charter. Bob started back at Section 7.02 (c). Bob Worley thought that is where the animal control issue should be.

Northey asked about when the redlined copy of the charter would be available. Bob Worley informed him that Jennifer has an electronic copy and the notes. She should have it to everyone by the 12th of January.

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Bob Worley stated as a commission if they want to make the Land Records a separate office, this would be the section where they would put that.

Tony Bonny agreed this is the time to do that but thinks that they should vote.

Bob Worley asked if they wanted to hear from Rob Macioroski or Mary McMahon again.

Bob Worley mentioned the discussion with Mary and if they try to remove Land Records from Clerk and Recorder, she will fight them on it.

Northey Tretheway suggested having both of them come to speak.

Bob Worley asked Ron if he would set up a time for them to meet with the Study Commission.

Ron asked if he wanted to set it up for separate times or together.

Bob Worley asked if there has been an ordinance established for that. Wayne asked if Ron could get them a copy of the ordinance on Section 7.04, Land Records System.

Tony Bonney asked if it was possible to get the notes from when they presented to the Study Commission. Bob Worley replied that they just made a presentation about their departments and what they did within their departments. Bob Worley stated that it was the intent of the previous Study Commission to make that a separate department. Bob Worley did not believe that they were fighting for that to be a separate department when Mary made her presentation.

Bob McCarthy stated that this has gone back about 30 years and started with the father of Bob Everly who is now the examining land surveyor for the county. In the mid 1970's, just before the city and the county consolidated, after the last three county commissioners were removed from office, the three appointed commissioners, Bill Popovich, Patsy Johnston and Pat Dennehy went to Helena and met with the Secretary of State to try and get a handle on what they should be doing. They learned many things as a county commission of Silver Bow County. One is that they were required by law to have an examining land surveyor. The county surveyor then was not a real surveyor and had no academic training. They contracted with a firm here in Butte and for the first time took on examining land surveyor duties and discovered, if they had every complied with the law it would have been by accident. Over the course of the next year or so, as the city-county emerged, the firm that hired the land surveyor tried to get things going the first time to comply with the law. After the city and county emerged, that when on for probably several months and then that firm left. They hired someone who was working for Walter Everly across the street. Bob McCarthy stated that he was really good, qualified and did a great job. He worked really hard at it but Montana Power saw how good he was, doubled his pay and hired him. Then they hired somebody else and that person did a good job and got hired by the Federal government. They doubled his pay and he left. Then they couldn't find anyone to work for the wages that were offered so they made an agreement with Walter of Everly Associates Engineering Firm to have him perform the examining land surveyor records. He understood the law, was trained, an engineer and surveyor. He really worked at this and over the course of the

next three to four years, he came to the conclusion that the only way things could really be fixed was to create a separate department. On his own, he went around the state and visited several counties that had created Land Records Departments. That is where all this came from. Bob McCarthy stated that he went with Walter to Missoula, Kalispell, Great Falls, Bozeman, Billings and looked at the best parts of the system. In 1980, the period between 85 and 86, there was a proposal made to that Study Commission along with a bunch of other things. Along with everything else it just went down in flames and so then they tried to create a system over the next several years. At the same time, their goal was compelled by the Superfund law suits to create a digitized land records system. That cost several million dollars and it is this system that ARCO was forced to pay for. They brought experts from all around and created a system out of nothing. BSB went from having the worst system in the state to having one of the best. Bob McCarthy stated we kind of had a combination of a superior system that operated in the Superfund arena. People in the Clerk and Recorder's Office were not trained and could not read a legal description. They were working on the end receiving the documents. It was somewhat difficult. Then BSB hired Rob and he was working for the state in the appraisal office. He started coming over and over and over and this was the reason they hired him. The county paid more than the State of Montana. Bob McCarthy mentioned the 1996 Study Commission approved a Land Records System expecting that it was going to be independent. Instead, after it was created, Jack Lynch and Barbara Sullivan got together and put it under Barbara Sullivan. Mary McMahon had nothing to do with creating the system or establishing the way it is now or putting it in the Clerk and Recorder's Office.

Northey Tretheway replied that the charter states that it would be within the Clerk and Recorder's.

Bob McCarthy commented that he does not pretend to know everything that is going on out there but knows the people who are working in the Land Records System complain that the people in the Clerk and Recorder's Office record documents incorrectly. They record things that they are not supposed to record. The reason is because there is no body in the Clerk and Recorder's Office who knows anything about land records. Land records are something that requires one to have training. They don't know how to read a legal description. Bob McCarthy stated if you go to other counties there will be people who are trained as surveyors and people who can read the legal description. The key to it is being really...you have to understand the law but you also have to be able to read a legal description. If you cannot read a legal description, you can't comply with the law. That is how it got so bad to begin with is the people in the Assessor's Office could not read a legal description. The people in the Clerk and Recorder's could not read a legal description.

Bob Worley asked if that was removed from the Clerk and Recorder's Office, what percentage of that office are they taking out the Clerk and Recorders? Why is Mary so adamant about having it in there?

Bob McCarthy replied one of the things that is difficult is the records are maintained in that area so it has to be an intricate part of it but thinks the supervision of the department has to be...there has to be sufficient authority with whoever is in charge of the Land Records System so they make all the ultimate decisions on land records documents. Bob McCarthy stated that they have made such strides and advancements that it is hard to imagine what it used to be. Bob McCarthy stated it could be a little better. They should have somebody in charge of that system who is hired based upon merit and who is trained in land records and understands what you can and cannot do. Remove the political overtones from that system. That is what they should be doing. The commissioners could do it by ordinance but have not.

Northey Tretheway asked why would there be... you have someone running Land Records currently. Rob is doing that but what more is there for the Clerk and Recorder to have the Land Record's person do incorrectly?

Bob McCarthy replied the only way they could make sure it operates independently and objectively, confidently is if it's independent. Bob McCarthy believes there is a real political battle there. Bob McCarthy stated that he would prefer it be independent and whoever is in charge of it be hired simply on merit and that they be in charge and responsible for all decisions about whether documents are recorded and all the related things whether or not...how the records are maintained and who gets to review them. Bob McCarthy stated that they had records stole a lot. Bob McCarthy stated they have been digitizing the system so that people do not see the document.

Northey Tretheway asked what are some of the things that could go wrong if they left it the way it is now?

Bob McCarthy stated a couple of times this year they have had documents recorded by a person who was on the Internet in the Clerk and Recorder's Office which did not meet the requirements of the law and should not have been recorded. Bob McCarthy stated there is a number of things that could go wrong such as things not being done properly, something may have required surveying that did not have a survey or there are conditions that are attached like it is part of a subdivision or streets. Bob McCarthy stated there are 14-15 conditions attached to a subdivision.

Bob Worley stated there was a motion on the floor that Section 7.04, Land Records System, reads as follows: the Council of Commissioners shall establish by ordinance a Land Records System. They will take out within the Clerk and Recorder and it will be up to the council authority. All were in favor and the motion carried unanimously.

Bob Worley moved forward to review Section 7.05, Finance and Budget System.

Bob Worley reviewed Section 7.06, Personnel System

Dave Palmer suggested it be changed to Human Resource Department.

Wayne Harper stated that what they are not using is ordinance. The Council of Commissioners shall establish...he thinks it should state "by ordinance". Wayne stated they should start running it like the rest of the world, upgrade and do whatever it takes to make employees happy.

Bob McCarthy mentioned the police used to run their own separate personnel system. It was a nightmare and there was grievance after grievance. Bob McCarthy stated it is not an exaggeration to say in 2005 there were more personnel problems in the Law Enforcement Department than the rest of government combined. They used to maintain separate records on everybody at the Law Enforcement Department.

Bob McCarthy agreed with Wayne that BSB should be moving in the modern era. Bob McCarthy stated there is not an era or section in this government that is less...this is the most under funded area in the entire government. There isn't another area of operation in the government, which is so over worked and understaffed. It causes such problems. This is something that is a big deal for employers and for governmental employers it is even bigger. Bob McCarthy stated this is the greatest single drain on this government that exists.

Northey Tretheway replied that there is nothing they can do as commissioners to fix that.

Bob McCarthy replied that they should be budgeting for this. He is not blaming the people that work in the Personnel Department. Bob McCarthy stated there are three people, the Director, a Secretary and Risk Manager. Bob McCarthy stated we need all kinds of things. The reason there is a Risk Manager is because their experience in losses was so bad that the insurance company forced BSB to hire a Risk Manager. Bob McCarthy stated BSB needs more personnel specialists.

Wayne Harper made a motion that they rewrite Section 7.06 and entitle it Human Resource System and it read the Council of Commissioners shall establish by ordinance a city-county Human Resource System.

Bob McCarthy commented that all the language Wayne took out ended up in the ordinance anyway. All of the extra language is not necessary. The problem is the funding.

Dave Palmer seconded the motion.

Bob McCarthy mentioned that he sees more than anybody. BSB gets sued, they have complaints, they have human rights commission complaints, they have grievances, they have this stuff going on all over the place and it is a distraction. It is difficult to handle and bad for morale. The problem is Silver Bow County was completely decentralized. Every elected office was a little empire. They made their own purchases, hired their own employees, set their office hours, they decided everything. Over the course of about 30 years, what they have tried to do is to create a centralized efficient system of government completely different than from what Silver Bow County was. The offices up here were for the most part operating for the purpose of hiring people. Bob McCarthy stated BSB now has an efficient Finance and Budget Department, Public Works system and Health Department, which run all kinds of programs. We have this Land Records System, which is almost there. The personnel issue is our greatest deficiency that is still missing. BSB has made strides everywhere else.

Bob Worley moved forward with the motion and the second on Section 7.06. It will be titled Human Resource System and read; the Council of Commissioners shall establish by ordinance a city-county Human Resource System. All were in favor and the motion carried.

Northey Tretheway asked, the council kind of sets the policy or should be setting the policies of the...

Bob McCarthy replied the Chief Executive prepares an executive budget that submits it to the council. The Chief Executive makes all of these decisions. He is not blaming anybody who is there now. This is something that has gone on for years. He has spoke to Jack Lynch and Judy Jacobsen about this. They have not received additional revenues in the operation it by the time she left. Judy's argument was that was a great idea but how are we going to pay for it? When these mill levy limits were put into place you were essentially frozen in time at the operation that you had then. If you were not doing something right, you were not performing a service or function or satisfying the duty that you should have been then you had problems with these caps because you could not increase your levy limits unless you were compelled to do something by court order. We were ordered to build a water plant and ordered to put the last addition onto the metro sewer plant so the water rates went up contrary to everything in the law because they were ordered by federal court because the system was operating so horribly. The problem is since they did not do it right, now how do you get the money to do it right?

Northey Tretheway asked if this is costing BSB so much money how do you put into effect or get something in place the recommendation necessary to adjust things so that you can justify based on how much it is costing?

Bob McCarthy replied with one person they hardly have time to cover the emergencies. If they hire two more people, two trained personnel, they would go from one to three. If they simply had two more people who were trained... if they had one more person, what they could do would be incredible.

Northey Tretheway's thoughts were in business, a person responsible for a particular area usually says this is what they need to do and then they bring it up to their boss...the Chief Executive should be going to council.

Bob Worley moved forward with Section 8.

Meg Sharp asked if there was any reason two paragraphs could not be consolidated into one?

Bob McCarthy replied there are two different things. One is the county that includes Walkerville and one is the municipality that excludes Walkerville. They are two different concepts.

Bob Worley commented maybe Walkerville would decide to come in under BSB.

Bob McCarthy replied a municipality could not incorporate within 3 miles of another incorporated municipality without the consent of the first municipality. Under the laws today, this could not happen. Bob McCarthy stated in Missoula, you could not have a community incorporate on the border of the city of Missoula.

Northey Tretheway asked if it would be cheaper to have this isolation be...

Bob McCarthy stated it is a matter of pride for Walkerville and they want to have their own benefit. Walkerville tried to run their own court up there and gave up. They adopted BSB's ordinances by their council so that BSB performs significant municipal functions in Walkerville where they adopt BSB's ordinances verbatim. BSB enforces it in their courts and use their people. Animal control in Walkerville is performed by BSB and there are other services that BSB also performs. Walkerville has the authority to determine a whole bunch of things themselves. Walkerville does not want to have a building code. They do not want BSB's building services.

Meg Sharp commented that she went to Walkerville's Study Commission public meeting and one of the questions asked was if they consolidated with BSB would they get more services cheaper. They were told they would not.

Bob McCarthy stated that was completely untrue. They would get full-time paid fire protection on the first owner and that is big thing. They would get our street service.

Bob Worley suggested that adjourn and continue where they left off at the end of Section 8.

Adjournment: Tony Bonney made a motion to adjourn and Northey Tretheway seconded. All were in favor and the motion carried. Meeting adjourned at 7:35 p.m.

Date of Next Meeting: January 15, 2005.

